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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,751	11/19/2003	Wes Brown	6619-A-1	6179

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EXAMINER

BARNEY, SETH E

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/716,751

Applicant(s)

BROWN, WES

Examiner

Seth Barney

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/19/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8, 10, and 11-20 is/are rejected.
- 7) ☒ Claim(s) 3,9 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/9/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "46" has been used to designate both the spool and the pipe holes. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: further strap (64), latch member (23), opening (41). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct

any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 30 and 68. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities: Reference characters are not consistent throughout the specification. The sprinkler is incorrectly referenced as (40) on page 8, line 3. The filling is incorrectly referenced as (36) on page 8, line 6. The knob is incorrectly referenced as (60) on page 9, line 7. The knob is incorrectly referenced as (24) on page 9, line 8.

Appropriate correction is required.

**The statement of intended use carries no patentable weight**

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4-8, 10, 11, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,201,343 to Stenild.

Regarding claim 1, Stenild discloses a water-spraying device having a base (1), a sprinkler (9) mounted on the base connected to a water source (4), and a rope (16) long enough for an individual standing adjacent to a building to grasp for positioning of the device.

Regarding claim 2, the water-spraying device of Stenild has an outer cover (1) and filling (7, 8, 12, 13, 19, 21, etc.) inside the cover.

Regarding claims 4 and 5, the water-spraying device of Stenild would weigh less than 10 pounds when not filled with water and would weigh more than 10 pounds when filled depending on the materials used. See column 1 lines 37 to 39.

Regarding claim 6, the water-spraying device of Stenild comprises a top section (2), a neck section (8) beneath the top section, wherein the top section is wider than the neck section, and wherein the base has an outer cover (1) with an aperture (5) at the

top of the surface to penetrably receive the neck section, but not the top section. See Figure 1.

Regarding claim 7, the water-spraying device of Stenild has a pipe (not labeled, see Figure 1) interconnecting the sprinkler with the water source. See Figure 1.

Regarding claim 8, the water-spraying device of Stenild has a pipe (not labeled, see Figure 1) interconnected with the sprinkler (9) and a coupling (4) attached to the pipe for engagement of the water source. See Figure 1.

Regarding claim 10, the coupling is on one side of the base and the rope extends from the opposite side. See Figure 1.

Regarding claim 11, the water-spraying device of Stenild has a spool (3) for storing the rope. See Figure 1.

Regarding claim 14 and 15, the water-spraying device of Stenild has a hose in fluid communication with the water source. See column 2 lines 16 to 23.

Regarding method claim 17 to 20, the apparatus of Stenild is capable of performing all of the method steps as set forth in the claims.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,201,343 to Stenild.

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Stenild suggests that the spool may be detachably mounted to the base, but does not expressly disclose how to do so. See Column 2, lines 1 to 4. The examiner takes Official Notice that it is old and well known in the art to use straps to hold reels in the non-operative condition. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the water-spraying device of Stenild with straps in order to secure the reel.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,201,343 to Stenild.

Stenild does not that the water-spraying device has handles. The examiner takes Official Notice that the use of handles on any portable device is old and well known in the art. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the water-spraying device of Stenild with handles in order to carry the device.

***Allowable Subject Matter***

10. Claims 3, 9, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

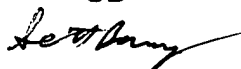
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 693,421 to Munch discloses a water spraying device having a hose connection and a rope.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (703) 308-2603 until November 21, 2004. Effective November 22, 2004 the number will be (571) 272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (703)308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB



Seth Barney  
Examiner  
Art Unit 3752



David A. Scherbel  
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